

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

<b>JORGE RIVERA-GUADALUPE,</b>	:	<b>Civil No. 1:19-CV-1400</b>
	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>CITY OF HARRISBURG BUREAU</b>	:	
<b>OF POLICE, JACOB PIERCE,</b>	:	
<b>DAUPHIN COUNTY DISTRICT</b>	:	
<b>ATTORNEY’S OFFICE, AND</b>	:	
<b>MICHAEL SPROW, ESQ.,</b>	:	
	:	
<b>Defendants.</b>	:	<b>Judge Sylvia H. Rambo</b>

**ORDER**

Before the court are two motions to dismiss under Rule 12(b)(6), one filed by Defendants City of Harrisburg Bureau of Police and Detective Jacob Pierce (“Detective Pierce”) (collectively, the “Police Defendants”) (Doc. 11), and another filed by Defendants Dauphin County District Attorney’s Office and Michael Sprow, Esquire (“Attorney Sprow”) (collectively, the “Prosecutor Defendants”) (Doc. 12). For the reasons outlined in the accompanying memorandum, the Police Defendants’ motion shall be granted in part and denied in part, while the Prosecutor Defendants’ motion shall be granted in full, in the following manner:

(1) Count 1 is hereby **DISMISSED WITH PREJUDICE**.

(2) Count 2 is hereby **DISMISSED IN PART WITH PREJUDICE**

regarding Plaintiff’s claim that the Defendants violated his Fourteenth Amendment rights by maliciously prosecuting him. The court will,

however, permit Plaintiff's complaint to leave references to the Fourteenth Amendment in place, exclusively insofar as they encompass the Fourth Amendment's application to Defendant state actors.

(3) Count 2 of Plaintiff's Complaint is hereby **DISMISSED IN PART WITHOUT PREJUDICE** concerning the claims against Defendant Michael Sprow.

(4) Count 3 of Plaintiff's Complaint is hereby **DISMISSED IN PART WITH PREJUDICE** against Defendants City of Harrisburg Bureau of Police and Defendant Dauphin County District Attorney's Office. Plaintiff may, however, amend his complaint to add other government defendants as the proper defendants referenced in Count 3.

(5) Count 4 is hereby **DISMISSED IN PART WITH PREJUDICE** concerning his claim that Defendants conspired under 42 U.S.C. § 1985.

(6) Count 4 is hereby **DISMISSED IN PART WITHOUT PREJUDICE** concerning the conspiracy claim under 42 U.S.C. § 1983.

(7) Count 5 is hereby **DISMISSED IN PART WITH PREJUDICE** as pleaded against Defendant Michael Sprow, Esq.

(8) Count 6 is hereby **DISMISSED WITH PREJUDICE** against the named government defendants, as well as any government defendants Plaintiff adds to his complaint, under § 1983.

(9) The motions are denied on all other bases.

(10) Plaintiff has leave to amend his complaint and remedy all claims dismissed without prejudice within **TWENTY-ONE DAYS** of entry of this order.

/s/ Sylvia H. Rambo

SYLVIA H. RAMBO

United States District Judge

Dated: July 22, 2020